



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Vacant, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, June 13, 2012

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Philip M. Goldstein, Ward 7 Council Member

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

PROCLAMATIONS:

20120585 Proclamation

Proclamation presented to Mr. Douglas Frey and Mr. Jim Divitale, author of "Marietta, the GEM City of Georgia" and the Cobb Landmarks and Historical Society in recognition of their outstanding efforts with the publication of this book.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

SCHEDULED APPEARANCES:

20120498 Scheduled Appearance - Kristen Picken

Resident at 413 Talcott Circle (Ward 4). Speaking to council about "backyard poultry."

UNSCHEDULED APPEARANCES:**CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:

* **20120535 Regular Meeting - May 9, 2012**

Review and approval of the May 9, 2012 regular meeting minutes.

* **20120542 Special Meeting - May 30, 2012**

Review and approval of the May 30, 2012 special meeting minutes.

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:**

* **20120515 Construction Board of Adjustment and Appeals (Ward 1)**

Motion to reappoint Susan Grant to the Construction Board of Adjustment and Appeals for a five (5) year term expiring May 10, 2017.

* **20120516 Ethics Committee Council Appointment**

Motion appointing Betty Hunter to the Ethics Committee for a two (2) year term expiring June 13, 2014.

* **20120533 Cobb-Marietta Water Authority Appointment**

Motion appointing Grif Chalfant to the Cobb-Marietta Water Authority for a term of four years commencing August 14, 2012 and expiring August 14, 2016.

ORDINANCES:

20120278 Z2012-02 Racetrac Petroleum, Inc. 1400 Powder Springs Road

Z2012-02 [REZONING] RACETRAC PETROLEUM, INC. request rezoning for a portion of the property located in Land Lot 02600, District 19, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia and being known as 1400 Powder Springs Road from R-2 (Single Family Residential 2 units/acre) to CRC (Community Retail Commercial). Ward 2.

Council member Goldstein disclosed that he and/or entities that he owns or is affiliated with has used and/or use the attorney, Kevin Moore, from time to time.

Planning Commission recommends approval Vote: 6 – 0 – 0

Motion: Commissioner Kinney made a motion to recommend to City Council that the application be approved as submitted.

Stipulations: Subject to the letter of stipulations from Kevin Moore to Mr. Russell Roth dated May 8, 2012.

PUBLIC HEARING (*all parties are sworn in*)

This was tabled at the Wednesday, May 9, 2012 City Council Meeting.

RESOLUTIONS:**CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson***** 20120479 2012 CDBG Sub-Recipient Agreement**

Resolution authorizing the execution of the FY12 CDBG Sub-Recipient Agreement with Cobb County allowing the receipt of \$565,979 in US Department of Housing and Urban Development Block Grant Funds.

* **20120480 2012 HOME Sub-Recipient Agreement**

Resolution approving the FFY'2012 HOME Program Sub-recipient Agreement with Cobb County and receive \$198,378 in US Department of Housing and Urban Development HOME funds including the federally required set aside for CHDO.

2. Finance/Investment: Annette Lewis, Chairperson

* **20120455 Adoption of recommended Budget for FY2013**

Approval of an Ordinance adopting an Annual Budget for the fiscal year beginning July 1, 2012, and ending June 30, 2013, for the various funds of the City of Marietta and enacting the tentative Ad Valorem tax levies for said fiscal year for support of the City of Marietta governmental operations and other public purposes, and debt service obligations.

20120456 Welcome Center Contract

Motion to approve request to allocate hotel/motel and 3% auto rental tax funds according to the FY2013 Welcome Center Contract.

Council member Goldstein disclosed that he is the owner of and a general manager for the Herbert S. Goldstein Family Limited Partnership that owns the Earl Strand Theater at 115-119 North Park Square, Marietta GA. The tenant is Friends of the Strand, Inc. The tenant has an agreement with the Atlantic Lyric Theater, Inc., to use the facility. Council member Goldstein abstains on and will not participate on allocation of funds to the above two (2) entities.

Council member Goldstein is or has been a member of: Friends of Brumby Hall, Inc., Cobb Landmarks and Historical Society, Inc., Marietta-Cobb Museum of Art; and the Marietta Museum of History. He is also the Council's appointed member serving on the board of the Marietta Welcome Center and Visitors Bureau, Inc.

Mayor Tumlin has served as a director, but is currently not serving, of the following organizations being considered for sponsorships: Marietta-Cobb Museum of Art; Marietta Museum of History, Inc.; and Friends of the Strand, Inc. Additionally, Mayor Tumlin has provided legal services to Friends of the Strand, Inc. and accounting services to Marietta Museum of History, Inc. Mayor Tumlin has been/is a Member of Brumby Hall, Inc. and Cobb Landmarks & Historical Society.

Council member Sinclair disclosed that he is a past Chairman of the Board of the Art Museum, member of Cobb Landmarks, and has been a member of the Welcome Center and the Museum of the History.

*** 20120474 Appropriation of FY2012 Surplus Funds**

Approval of an Ordinance amending the Fiscal Year 2012 budget to appropriate surplus revenue to cover the cost of prisoner housing expenses, fuel and capital purchases.

*** 20120484 Appropriation of funds for purchase of police transport van replacement**

Approval of an Ordinance amending the Fiscal Year 2012 Budget to receive \$6,349 in insurance claim reimbursement and \$24,041 in condemned funds and appropriate these amounts to replace a totaled prisoner transport van and emergency equipment for the Police Department.

20120524 Approval to proceed with new contract for the annual audit

Motion to proceed with new contract with Mauldin and Jenkins, LLC for the annual audit.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson*** 20120488 Appointment of Open Records Officer**

Motion appointing the City Clerk as the Open Records Officer.

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson*** 20120495 Renaming of Hickory Hills Park**

Adoption of a Resolution renaming Hickory Hills Park to Steve and Virginia Tumlin Park at Hickory Hills.

PUBLIC HEARING

*** 20120514 Custer Park Operating Agreement**

Motion adopting an operating agreement with Metro Atlanta YMCA through the N.E. Cobb Branch for the operation of Custer Park.

5. Personnel/Insurance: Grif Chalfant, Vice Chairperson*** 20120483 Position allocation and compensation plan**

Approval of an Ordinance adopting the position allocation chart for the City of Marietta and the Board of Lights and Water and approval of the City of Marietta/BLW position classification and compensation plans for the period of July 1, 2012 to June 30, 2013.

6. Public Safety Committee: Anthony Coleman, Chairperson**7. Public Works Committee: Jim King, Chairperson***** 20110249 Wilson Drive**

Approval of a Resolution regarding the naming of Wilson Drive.

PUBLIC HEARING

20120251 Speed Hump Policy

Motion to approve Speed Hump Policy modifications.

APPEARANCES:**OTHER BUSINESS:****20120141 V2012-11 Roy W. Mertz 2265 Kingston Court**

V2012-11 [VARIANCE] ROY W. MERTZ request variance for property located in Land Lot 07260, District 17, Parcel 0010 and being known as 2265 Kingston Court. Variance to allow abandoned signs to remain. Ward 7.

Council member Chalfant disclosed that he has employed the engineer, Wayne Proctor, at various times.

Council member Goldstein disclosed that he has used the engineer, Wayne Proctor, in the past; however, has no current business dealings with him.

This item was tabled at the March 7, 2012, April 11, 2012 and May 9, 2012 City Council Meetings.

20120142 V2012-12 Michael McDonald - Pavilion Development 2195 Cobb Parkway South

V2012-12 [VARIANCE] MICHAEL MCDONALD (PAVILION DEVELOPMENT) request variance for property located in Land Lot 08050, District 17, Parcel 0160 and being known as 2195 Cobb Parkway South. Variance to allow a general advertising sign outside of the area within 100 feet of the right of way of Interstate 75.; Variance to waive the requirement that a general advertising sign be regulated as a principal use; Variance to allow a general advertising sign to be located within 1,000 foot radius of another general advertising sign; Variance to reduce the side setback for a general advertising sign support structure from 15' to 11'; Variance to reduce the side setback for a general advertising sign face from 11.25' to 7'; Variance to reduce the front setback for a general advertising sign face from 30' to 17'; Variance to allow a general advertising sign be located on a lot upon which a building and signage is located; Variance to allow a general advertising sign be located closer to a permanent structure than the distance that is equal to the height of the sign. Ward 1.

This item was tabled at the March 7, 2012, April 11, 2012 and May 9, 2012 City Council Meetings.

20120496 V2012-20 David A. Jackson for Cobb County (Mobility Center) 680 South Marietta Parkway; 505 South Fairground Street; 431 Commerce Park Drive

Motion to approve variances for property located in Land Lot 03610, District 17, Parcels 0310, 0340, & 0280 and being known as 680 S. Marietta Parkway, 505 S. Fairground Street, and 431 Commerce Park Drive. These variances shall be for the current proposed development of the property for a Cobb County Mobility Center only, and shall be discontinued upon the redevelopment of the site (subject to Section 706 Nonconforming Uses):

20120541 V2012-22 [VARIANCE] FIFTH THIRD BANK [MATTHEW VAN DYKE (CORE STATES GROUP)] request variances for property located in Land Lots 12110 & 12120, District 16, Parcels 1400 & 0020 and being known as 9 Cobb Parkway N. and 1017 Roswell Street.

- Variance to increase the allowable height for a single freestanding sign only along the Cobb Parkway frontage of 9 Cobb Parkway North within Tier A from 8' to 15';
- Variance to increase the allowable sign face for a single freestanding sign only along the Cobb Parkway frontage of 9 Cobb Parkway North within Tier A from 60 s.f. to 100 s.f.;
- Variances and stipulation related to two proposed shared signs at 9 Cobb Parkway North and 1017 Roswell St.:
 - Variance to allow a general advertising sign and two off-premise signs outside of the area within 100 feet of the right of way of Interstate 75;
 - Variance to waive the requirement that a general advertising sign and off-premise sign be regulated as a principal use;
 - Variance to waive the requirement that no general advertising sign or off-premise sign shall be located within 1,000 foot radius of another general advertising or off-premise sign;
 - Variance to allow a general advertising sign and off-premise signs be located on a lot which a building and signage is located;
 - It is stipulated that the sharing of space on these signs shall only apply to businesses located at 9 Cobb Parkway North and 1017 Roswell St.;
- Variances and stipulations related to the existing billboard located at 9 Cobb Parkway North:
 - Variance to allow a general advertising sign and two off-premise signs outside of the area within 100 feet of the right of way of Interstate 75;
 - Variance to waive the requirement that a general advertising sign and off-premise sign be regulated as a principal use;
 - Variance to waive the requirement that no general advertising sign or off-premise sign shall be located within 1,000 foot radius of another general advertising or off-premise sign;
 - Variance to allow a general advertising sign and off-premise signs be located on a lot which a building and signage is located;
 - It is stipulated that the existing billboard located at 9 Cobb Parkway North shall be removed within 60 days (or sooner) of May 31, 2016 (date of the current lease expiration between the property owner and CBS Outdoor Inc.) at the expense of the applicant and/or applicable party other than the City of Marietta;
 - All variances granted for the existing billboard shall expire once the billboard is removed.
- Variance to waive the optional site design elements;
- Variance to eliminate the maximum 16' setback;
- Variance to eliminate the requirement that any building abutting a public right-of-way be oriented to the street;

- Variance to waive the 6' brick sidewalk along Cobb Parkway North and Key Drive and require a 5 foot paved concrete sidewalk along Cobb Parkway North and Key Drive as close as practicable to the 10 foot landscape strip. The installation of the sidewalk along Cobb Parkway North shall be subject to the approval of Georgia Dept. of Transportation;
- Variance to eliminate the requirement that drive-through service window, bay, or lane and all queuing lanes be located as far as practicable from any right-of-way or pedestrian route;
- Variance to allow the proposed future streetscape being installed by the City to satisfy the requirement for landscape screening for drive-through facilities within 50' of a pedestrian route.

Ward 5.

20120529 Request for a Variance from the Law Firm of Brock Clay concerning underground utilities

The request for an underground utility variances from city code sections 5-4-040 and 5-4-160 to allow an aerial communications cable on private property and city right of way from 49 Atlanta Street to 61 Atlanta Street, filed by Brock, Clay, Calhoun & Rogers, LLC is hereby granted with the following conditions and stipulations:

1. Compliance in full with all terms and conditions set forth in Marietta City Code Section 5-4-040.
2. Compliance in full with all terms and conditions set forth in Marietta City Code Section 5-4-160.
3. Compliance in full with all other Marietta City Codes applicable to this application.
4. The removal of any and all telecommunications cables, facilities or equipment upon the earlier of ninety (90) day notice from the City of Marietta to remove same or the City of Marietta relocating adjoining facilities underground.
5. The applicant obtaining the proper approval and agreement from the Board of Lights and Water for attachment to any pole or facility owned by the Board of Lights and Water.
6. The obtaining of any and all necessary permits or licenses in order to operate within the right-of-way of the City of Marietta.
7. The applicant shall fully indemnify the City of Marietta and the Board of Lights and Water from any and all liability, damages, costs of any type related to this variance approval.

*** 20120536 BLW Actions of the June 11, 2012**

Review and approval of the June 11, 2012 actions and minutes of the Marietta Board of Lights and Water.

UNSCHEDULED APPEARANCES:

ADJOURNMENT: